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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/787,641	06/08/2001	Robert DeHaan	0264-0002	4624
7590 02/11/2004				
Brian H. Batzli				
P.O. Box 2903				
Minneapolis, MN 55402-0903				
		EXAMINER		
		TOOMER, CEPHIA D		
		ART UNIT		
		PAPER NUMBER		

1714

DATE MAILED: 02/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/787,641

Applicant(s)

DEHAAN ET AL

Examiner

Cephia D. Toomer

Art Unit

1714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-56 is/are pending in the application.
- 4a) Of the above claim(s) 27-55 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 8 and 56 is/are rejected.
- 7) ☒ Claim(s) 4-7 and 9-26 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

1. This office action is in response to the election filed November 20, 2003. Upon further inspection of the present application it is noted that a preliminary amendment was filed canceling claims 1-56 and substituting new claims 1-48. The preliminary amendment has not been entered because the claims have not been marked up to show the changes.

Election/Restrictions

2. Applicant's election with traverse of Group I in Paper No. 112003 is acknowledged. The traversal is on the ground(s) that since claim 56 falls within each group that a single general inventive concept exists. This is not found persuasive because the claim is an omnibus claim and fails to point out what is included or excluded by the claim language.

The requirement is still deemed proper and is therefore made FINAL.

Specification

3. The specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.
4. Claims 4-7 and 13-26 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from another multiple

Art Unit: 1714

dependent claim, either directly or indirectly. See MPEP § 608.01(n). Accordingly, the claims not been further treated on the merits.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 56 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite in that it fails to point out what is included or excluded by the claim language. This claim is an omnibus type claim.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1, 2, 8 and 56 are rejected under 35 U.S.C. 102(b) as being anticipated by Wo9834998.

WO '98 teaches diesel fuel additives prepared by Fischer-Tropsch reaction wherein the additive comprises greater than 90 wt% C₁₆-C₂₀ paraffins of which greater than 50 wt% are isoparaffins having greater than 25 wt% mono-methyl branching. The combined olefin and aromatic content is less than 0.5 wt% (see abstract; page 2, lines 1-19). While WO '98 is silent with respect to how the aromatic content is determined,

Art Unit: 1714

WO '98 clearly meets the limitation regarding the aromatic content. The method of determination is given no patentable weight and is not considered a limitation.

Accordingly, WO '98 teaching all the limitations of the claims, anticipates the claims.

9. Claims 1, 2 and 56 are rejected under 35 U.S.C. 102(b) as being anticipated by WO9714769.

WO '69 teaches diesel fuels or blending stocks produced from Fischer-Tropsch processes wherein the fuel or blending stock comprises at least 95 wt % paraffins and less than 2 wt% olefins and aromatics (see abstract; page 5, lines 13-25). While WO '69 is silent with respect to how the aromatic content is determined, WO '69 clearly meets the limitation regarding the aromatic content. The method of determination is given no patentable weight and is not considered a limitation.

Accordingly, WO '69 teaching all the limitations of the claims, anticipates the claims.

10. Claims 1, 2 and 56 are rejected under 35 U.S.C. 102(b) as being anticipated by WO9214804.

WO '04 teaches a fuel composition comprising mainly a mixture of hydrocarbons containing not more than 1% by volume of aromatic-type hydrocarbons (see abstract; claim 1. While WO '04 is silent with respect to how the aromatic content is determined,

Art Unit: 1714

WO '04 clearly meets the limitation regarding the aromatic content. The method of determination is given no patentable weight and is not considered a limitation.

Accordingly, WO '04 teaching all the limitations of the claims, anticipates the claims.

11. Claims 1-3 and 56 are rejected under 35 U.S.C. 102(b) as being anticipated by Van Slyke (US 5,635,457).

Van Slyke teaches a non-toxic synthetic fluid comprising at least 95 wt % hydrocarbons containing 11 or more C atoms, greater than 5 wt% hydrocarbons containing 18 or more C atoms, at least 50 wt% isoparaffins, at least about 80 wt% total paraffins and less than 0.1 wt% aromatics (see abstract; co. 1, lines 19-38; Table II). In Tables I and IV, the aromatic content of the fluid is as low as 0.001 wt %. Van Slyke teaches that ASTM 5186 is used to determine the aromatic content (see Tables).

Accordingly, Van Slyke teaching all the limitations of the claims, anticipates the claims.

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 1714

13. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Van Slyke (US 5,635,457).

Van Slyke has been discussed above. Van Slyke fails to teach that the isoparaffins are predominantly methyl, ethyl or propyl branched. However, since the definition of an isoparaffin is an aliphatic, saturated hydrocarbon containing one – CHMe- group, it would be reasonable to expect that the isoparaffin of Van Slyke are predominantly methyl branched.

14. Claims 9-12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art fails to teach or suggest the claimed ratio of isoparaffins to n-paraffins for the distillate cuts.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cephia D. Toomer whose telephone number is 571-272-1126. The examiner can normally be reached on Monday-Thursday.

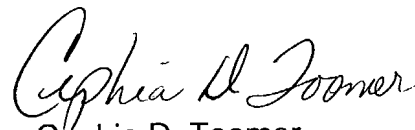
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 571-272-1119. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Application/Control Number: 09/787,641

Page 7

Art Unit: 1714

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

A handwritten signature in cursive script, reading "Cephia D. Toomer".

Cephia D. Toomer
Primary Examiner
Art Unit 1714

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